

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

IN RE:	§	
	§	
FIRED UP, INC.	§	CASE NO. 14-10447-tmd
	§	(Chapter 11)
DEBTOR¹	§	

**APPLICATION FOR AUTHORITY TO EMPLOY HAJJAR, SUTHERLAND &
PETERS, LLP AS SPECIAL COUNSEL FOR THE DEBTOR**

A hearing will be conducted on this matter on June 5, 2014 at 1:30 pm in courtroom no. 1, 903 San Jacinto, Austin, TX 78701.

If you object to the relief requested, you must respond in writing, specifically answering each paragraph of this pleading. Unless otherwise directed by the court, you must file your response with the clerk of the bankruptcy court within 21 days from the date you were served with this pleading. You must serve a copy of your response on the person who sent you the notice; otherwise, the court may treat the pleading as unopposed and grant the relief requested.

TO THE HONORABLE JUDGE OF SAID COURT:

Fired Up, Inc. (the "Debtor") hereby files this Application for Authority to Employ Hajjar, Sutherland & Peters, LLP ("HSP") as Special Counsel for the Debtor (the "Application").

Jurisdiction and Venue

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The Court has authority to grant the Application pursuant to 11 U.S.C. § 327(a).

Relief Requested

¹ Until February 26, 2014, Debtor's business was being operated partially by the Debtor, partially by Kona Restaurant Group, Inc. ("KRG"), a Delaware corporation wholly owned by the Debtor, and partially by Carino's Italian Kitchen, Inc. ("CIK"), a Delaware corporation wholly owned by KRG. CIK was merged into KRG in Delaware and KRG was merged in to the Debtor, a Texas corporation, in Texas.

2. The Debtor filed a voluntary petition for relief under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §101, et. seq., (the "Bankruptcy Code") on March 27, 2014 (the "Petition Date").

3. The Debtor is operating its business and managing its assets as a debtor-in-possession pursuant to 11 U.S.C. §§ 1107 and 1108. This Court has not appointed a trustee or examiner; an official committee of unsecured creditors has been appointed.

4. Pursuant to 11 U.S.C. § 327(e), the Debtor requests the entry of an order authorizing the employment of HSP as special counsel for the Debtor in this Chapter 11 case. HSP maintains an office at 3144 Bee Caves Road, Austin, Texas 78746, and can be reached at (512) 637-4956, e-mail address: khajjar@legalstrategy.com.

5. The Debtor has selected HSP as special counsel because its attorneys have experience representing the Debtor in its corporate affairs and real estate transactions.

Basis for Relief

6. Section 327(e) of the Bankruptcy Code authorizes a trustee to retain:

For a specified special purpose, other than to represent the trustee in conducting the case, an attorney that has represented the debtor, if in the best interest of the estate, and if such attorney does not represent or hold any interest adverse to the debtor or to the estate with respect to the matter on which such attorney is to be employed.

See 11 U.S.C. § 327(e).

7. The Debtor seeks to retain HSP as special counsel. The Debtor believes that HSP possesses the requisite resources and is both highly qualified and uniquely able to represent the Debtor in this case.

8. The Debtor proposes to employ HSP to perform the following services for the estate: lease negotiations, general corporate matters, and general trademark and other intellectual property matters.

9. Subject to the fee application process and this Court's approval, Debtor HSP will charge Debtor for its legal services on an hourly basis. The rates at which the Debtor will be billed are listed in the attached Unsworn Declaration Under Penalty of Perjury by the Special Counsel for Debtor.

10. To the best of the Debtor's knowledge, other than in connection with this chapter 11 case, HSP has no connection with the Debtor, its creditors, any other party in interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee, except as set forth herein and/or in the Verified Statement of Kareem Hajjar (the "Hajjar Statement"), filed pursuant to Federal Rule of Bankruptcy Procedure 2014(a).

11. Based on the Hajjar Statement and the Debtor's knowledge of its business, litigation and relations with creditors and other parties in interest, HSP does not represent or hold any interest adverse to Debtor, its estate, creditors, equity security holders, or affiliates in the matters upon which it is to be engaged, and HSP is a person "necessary in the operation of [Debtor-in-possession's] business" within the meaning of 11 U.S.C. § 327.

12. HSP is owed for fees incurred during the week prior to bankruptcy. HSP did not receive a retainer.

13. HSP intends to apply to this Court for allowance of compensation and reimbursement of expenses pursuant to the provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, and any applicable orders entered by this Court with respect

to the allowance and payment of fees and expenses in this case. HSP's fees and expenses approved and allowed by this Court will be paid from the Debtor's cash flow. The Debtor requests that HSP be authorized to apply for compensation every sixty (60) days.

WHEREFORE, the Debtor respectfully requests that the Court (i) authorize the Debtor to employ and pay HSP as special counsel in this chapter 11 case effective as of the petition date; and (ii) grant the Debtor such other legal and equitable relief to which it is entitled.

Dated: April 10, 2014

Respectfully Submitted,

BARRON & NEWBURGER, P.C.

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(512) 476-9103 Ext. 220

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By: /s/ Stephen W. Sather

Barbara M. Barron

State Bar No. 01817300

Stephen W. Sather

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PROPOSED ATTORNEYS FOR DEBTOR

APPROVED:

FIRED UP, INC.

By: 

Creed Ford III

President/Chief Executive Officer

CERTIFICATE OF SERVICE

I certify a copy of the foregoing by electronic mail transmission on April 16, 2014, to all parties listed on the Service List attached to the filed copy of this Pleading and electronically by the Court's ECF system has been served to all parties registered to receive such service. Copies of the matrix are not included in service copies but may be obtained from the Clerk of the Court or Debtor's counsel.

/s/Stephen W. Sather

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20 Largest Unsecured Creditors:

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Internal Revenue Service
Special Procedures Staff- Insolvency
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Philadelphia, PA 19101-7346

Texas Workforce Commission
Attn: Regulatory Integrity Div-SAU
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Secured Creditors:

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**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

In Re:

**FIRED UP, INC.
Debtor**

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**Case No. 14-
(Chapter 11)**

**UNSWORN DECLARATION UNDER PENALTY OF PERJURY
BY THE SPECIAL COUNSEL FOR DEBTOR**

The undersigned Kareem Hajjar does hereby certify under penalty of perjury pursuant to Rule 2016(b) of the Bankruptcy Rules of Procedure:

1. That the compensation paid or promised to him for services to be rendered in connection with the case is as follows: Fees will be billed at the following rates:

Robert Wheeler	\$360/hr.
Diana Borden	\$275/hr.
Angela Woodbury	\$275/hr.
Kareem Hajjar	\$275/hr.
Doran Peters	\$275/hr.
Judson Sutherland	\$275/hr.
Whitney Withers	\$250/hr.
Benjamin Ruiz	\$250/hr.
Santiago Diaz	\$140/hr.
Frances Rosales	\$110/hr.
Jessica Metz	\$110/hr.

The principal staff on the file will be Kareem Hajjar, Whitney Withers, Angela Woodbury and Benjamin Ruiz. The aforementioned attorneys presently bill at a rate of \$275 per hour.

2. The firm received payments from the Debtor in the amount of \$102,328.70 during the year prior to bankruptcy. This averaged \$8,527.39 per month. The total fees billed to the Debtor for the past three years averaged \$34,798.79 per year. No fees were owed as of the petition date except for fees incurred during the week prior to bankruptcy.

3. The firm has not received a retainer from the Debtor. The retainer was paid from the Debtor's funds. Such retainer constitutes a "security retainer" and will be held in the firm's trust account pending further order of the Court. The firm asserts a lien against such retainer for fees and expenses subject to Court approval.


4. That the source of such compensation is as follows: all fees will be paid from the retainer or the estate pursuant to court approval.

5. That affiant has not shared nor agreed to share such compensation with anyone except shareholders and associates of his firm.

EXECUTED ON THIS THE 31st DAY OF March, 2014.

HAJJAR SUTHERLAND & PETERS LLP

By:


KAREEM HAJAR, PARTNER

APPROVED:

Fired Up, Inc.

By:


Creed Ford, III, President

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

In Re:

**FIRED UP, INC.
Debtor**

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**Case No. 14-
(Chapter 11)**

AFFIDAVIT OF PROPOSED SPECIAL COUNSEL

STATE OF TEXAS

§
§
§

COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, on this day personally appeared Kareem Hajjar, who, after first being duly sworn, upon his oath, deposed and stated as follows:

1. "I am an attorney licensed to practice in the State of Texas and maintain offices at 3144 Bee Caves Road, Austin, Texas 78746. I am an attorney with the firm of Hajjar Sutherland & Peters LLP ("the Firm").

2. The Firm has been engaged to represent Fired Up, Inc. for the following specific purposes:

- a. Lease negotiations
- b. General corporate matters
- c. Trademarks and intellectual property

3. I requested that an employee of the Firm perform a search of the conflicts database for the Firm. I reviewed the results of the conflicts search and also made my own independent review of the list of creditors.

4. I do not have any interest adverse to the Bankruptcy estate set forth above in the matters upon which the firm is to be employed. To the best of my knowledge, I have no connection with the United States Trustee or any person employed at the office of the United States Trustee which would establish an interest adverse to the bankruptcy estate. I reserve the right to supplement this Affidavit if I become aware of any potential conflicts and will notify the Court immediately upon discovery of such information.

5. I am aware of the following connections which should be disclosed pursuant to Fed.R.Bankr.Pro. 2014:

a Debtor: The has represented the Debtor since approximately October, 2012. The representation has been limited to real estate, corporate, intellectual property and litigation matters.

b Creditors:

i. Creed Ford, III is an unsecured creditor. The Firm represented Creed Ford in various corporate and real estate matters.

ii. Creed Ford, IV is an unsecured creditor. The Firm represented Creed Ford in various corporate and real estate matters.

iii. Ford Restaurant Group, Inc. is an unsecured creditor. The Firm represents Ford Restaurant Group in various corporate and real estate matters, including the purchase, leasing and sale of real property.

iv. Moondance, Inc. is an unsecured creditor. The Firm represents Ford Restaurant Group in various corporate and real estate matters, including the purchase, leasing and sale of real property.

v. Native Land Investments, Ltd. is an unsecured creditor. The Firm represents Ford Restaurant Group in various corporate and real estate matters, including the purchase, leasing and sale of real property.

This firm has represented, or continues to represent the following parties in aspects unrelated to this matter: (i) Creed Ford, III; (ii) Creed Ford, IV; (iii) Lynn Ford; (iv) Harper Ford Rehme; (v) Peter Rehme; (vi) Moondance Investments, Ltd; (vii) Rudy's Texas Bar B Q, LLC; (viii) Cherokee Café, Inc.; (ix) Rehme Investments, LLC; (x) Rehme Custom Iron Work, Inc.; (xi) Tony C's 71 GP, LLC; (xii) Tony C's 71, LP; (xiii) Tony C's Holdings, LLC; (xiv) TCC4 Hospitality, LLC; (xv) Tony C's – Avery, LLC; (xvi) Native Land Investments, Ltd. (xvii) Moondance, Inc.; and (xviii) Rudy's West Bar-B-Q, LLC.

c. Other: None

d. U.S. Trustee: I am not aware of any connections with the U.S. Trustee or any person employed by the U.S. Trustee.

d. Attorneys: No attorneys have entered an appearance in this case at the present time.

4. Based upon the foregoing, I believe that the Firm is a disinterested person within the meaning of Sections 101(14) and 327 of the Bankruptcy Code.

5. I declare the above and foregoing to be true and correct under penalty of perjury.


Kareem Hajjar